

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Benjamin P. Fields,)	
)	
Plaintiff,)	
)	
v.)	MOTION TO DISMISS
)	[Defendants Richland County Sheriff's
)	Department and Leon Lott]
Richland County Sheriff's Department,)	
Richland School District Two, and Leon Lott,)	
)	
Defendants.)	
_____)	

Defendants Richland County Sheriff's Department ("RCSD") and Leon Lott move, pursuant to Fed.R.Civ.P. 12(b)(6), for an order dismissing this action against them. The grounds of this motion, as more fully set forth in the attached memorandum of law, are that the Complaint fails to state a legally cognizable and/or factually plausible claim for relief against either of the moving defendants. More specifically, Plaintiff's state tort claims against RCSD are barred on the face of the Complaint by S.C. Code Ann. § 15-78-60(17) and the doctrine of sovereign immunity and, as to the negligence claim, by Plaintiff's at-will status and the consequent lack of duty owed to him by RCSD. Plaintiff's claim of racial discrimination under 42 U.S.C. § 1983 fails as a matter of law as to RCSD because RCSD is a state entity and not a "person" within the meaning of § 1983, and fails as a matter of law as to Defendant Lott individually because the Complaint does not allege a factually plausible claim against Sheriff Lott individually.

In support of this motion, Defendants RCSD and Lott rely on the allegations of the Complaint, the attached memorandum of law, and such oral argument, if any, as the court may permit.

s/ Vance J. Bettis

Vance J. Bettis (FID 1323)
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